

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
MAY 19 1981

Gentlemen:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code.

The information submitted discloses that you were incorporated [REDACTED] under the nonprofit laws of the State of [REDACTED]. Your purposes briefly stated are:

"To own, acquire, build, operate, and maintain recreation parks, playgrounds, swimming pools, golf courses, commons, streets, and footways; provide exterior maintenance for lots and homes; maintain unkempt lands or trees; supplement municipal services; enforce covenants applicable to Properties."

Section 501(c)(4) of the Internal Revenue Code provides exemption for:

"Civic Leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare..."

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that:

"An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterment and social improvements."

Section 501(c)(4) grants exemption to organizations that promote social welfare. The primary purpose must be to promote the common good and general welfare of the people of the community. The concept of social welfare includes the provision of benefits to the community at large. The provision of benefits to a narrow group of recipients is generally not considered to be in furtherance of the promotion of social welfare. On the other hand, where the benefits are available to a membership open to a cross section of the community, the required community benefit is present.

Revenue Ruling 74-99, 1974-1 C.B. 131, provides that in order to qualify for exemption under section 501(c)(4) an organization must serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental; it must not conduct activities directed to the exterior maintenance of private residences; and the common areas or facilities it owns and the common areas or facilities it owns and maintains must be for the use and enjoyment of the general public.

Revenue Ruling 69-280, 1969-1 C.B. 152, describes services that consist of maintenance of the exterior walls and roofs of individual home units. It is a private cooperative enterprise for the economic benefit or convenience of the members. In this case it was held that the organization was operated primarily for the private benefit of members and any benefits to the community were not sufficient to meet the requirement of the regulation that the organization be operated primarily for the common good and general welfare of the people of the community.

Your organization is a subdivision of [REDACTED], located in the city of [REDACTED]. Qualifications for membership include being an adult citizen and owning and residing in single family dwellings within the subdivision. Revenue Ruling 74-99, cited previously in this letter, held that a group of homeowners that are bound together by reason of being in the same housing development does not constitute a "community" within the meaning of section 501(c)(4). Also, your purposes state that you will provide exterior maintenance for the lots and homes within The Properties. You are also currently arranging for installation of street lights and constructing entry signs to your development. As previously ruled in Revenue Ruling 69-280, maintenance such as this benefits primarily the members and benefits to the community as a whole are incidental.

On the basis of the information submitted, we conclude that you are not exempt from Federal income tax under Code section 501(c)(4). Therefore, you are required to file Federal income tax returns on Form 1120.

Although you do not qualify for exemption under section 501(c)(4) of the Code, you may qualify for treatment under section 528, which is applicable to certain homeowners associations. The Internal Revenue Service is not ruling on the question of whether homeowners organizations qualify for treatment under section 528. and there are no application forms to be filed. If you believe you qualify for such treatment, you should file Form 1120-H.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely yours,


District Director

Enclosures:
Form 1120H
Publication 892